

Appl. No. 10/652,325
Atty. Docket No. 9350
Amdt. dated January 8, 2007
Reply to Office Action mailed Oct. 10, 2006
Customer No. 27752

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REMARKS

Claim 1 has been amended to require that the bedroll rotate at a first blade pass frequency, and the chop off roll rotate at a second blade pass frequency. Support for the current amendments to Claim 1 is found on page 4, lines 3-10; and page 5, lines 16-22, of Applicants' Specification, as originally filed. No new matter has been presented in amended Claim 1. Claims 1, 3-5, 7, and 8 remain in the instant Application and are presented for the Examiner's reconsideration in light of the above amendments and the following comments.

Rejection Under 35 U.S.C. §103

Claims 1, 3, and 5 have been rejected under 35 U.S.C. §103(a) over McNeil, U.S. Patent No. 4,919,351 in view of Nystrand, et al., Re Pat. No. 28,353. Previous arguments made with regard to both the *McNeil* and *Nystrand* references remain in effect but will not be repeated for the sake of brevity. The Examiner is respectfully urged to consider the following additional matters that distinguish Applicants' claimed invention, as now presented, over both the *McNeil* and *Nystrand* references.

1. Applicants have amended Claim 1 to require that the bedroll rotate at a first blade pass frequency, and the chop off roll rotate at a second blade pass frequency. It should be known also that Applicants' Claim 1 also requires that the second blade pass frequency be distinct from the first blade pass frequency.

2. The *McNeil* reference requires that, "... spatially, chop-off roll 23 has the same angular rate of rotation as bedroll 21. . . ." Ostensibly, this is "... because the mechanism is assembled so that blades 31 are parallel to blades 32 when assembled, they will continuously remain in parallel relation during the operation of the rewinder." (5:36-42) Having the bedroll and chop off roll having the same rate of rotation "... provides substantially equal velocities to blades 31 and 32 as they move into and out of meshed relations. . . ." (5:42-45; emphasis added)

3. It is respectfully submitted that the Examiner's assertion that the corresponding features of *McNeil* that are each driven by a separate motor and thus meeting the

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limitation of "being capable" or rotating, as claimed by Applicants, is irrelevant. The *McNeil* reference requires that the blades maintain the same angular rate of rotation. Having them operate at different angular rotational velocities (frequencies) is not what the *McNeil* reference requires.

A *prima facie* case of obviousness exists only when the prior art "provides the motivation to make the claimed [invention] in the expectation that [it] would have similar properties." See *In re Dillon*, 919 F.2d 688, 16 U.S.P.Q. 2d 1897 (Fed. Cir. 1990) (*en banc*), cert. denied 500 U.S. 904 (1991). Having a reference that requires the bedroll and chop off roll to maintain the same angular rate of rotation, as required by the *McNeil* reference cannot provide the motivation as required by the Federal Circuit to obviate Applicants' claim where the bedroll and chop off roll rotate at different frequencies (i.e., angular velocities). Having the bedroll and chop off roll of the *McNeil* reference rotate at different angular velocities, as required by the instant Application, arguably provides for an apparatus that will not function as disclosed. Thus, the combination of the *McNeil* and *Nystrand* references cannot render any of the rejected claims obvious. See *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988); M.P.E.P. §2143.01. At best, utilizing the Examiner's reasoning, the combination of the *McNeil* and *Nystrand* references leads to an impermissible hindsight determination of obviousness. Applicants therefore request reconsideration and withdrawal of the Examiner's 35 U.S.C. §103(a) rejection to Applicants' Claim 1 and all claims dependent directly or indirectly thereon.

Conclusion

Based on the foregoing, it is respectfully submitted that each of Applicants' remaining claims is in condition for allowance and favorable reconsideration is requested.

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This response is timely filed pursuant to the provisions of 37 C.F.R. §1.8 and M.P.E.P. §512, and no fee is believed due. However, if any additional charges are due, the Examiner is hereby authorized to deduct such charge from Deposit Account No. 16-2480 in the name of The Procter & Gamble Company.

Respectfully submitted,

~~THE PROCTER & GAMBLE COMPANY~~

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